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Attachment No. 3

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PLAINTIFF'S EXHIBIT

CAP-762

TO: AWWA Water Utility Personnel
FROM: John B. Mannion, Executive Director
DATE: August 7, 1989

Notice of Significant Regulatory Action

The US Environmental Protection Agency has formally announced a ban on the manufacturing, importing, and processing of almost all asbestos-containing products in the United States in three stages over the next seven years. Production of asbestos-cement pipe must be discontinued by August 1996.

The attached "backgrounder" will fill you in on the ban. In addition, it will help you answer consumer concerns about asbestos in drinking water.

The major point to remember is that the ban was imposed to decrease human exposure to airborne asbestos, which is a proven health threat. To date, no studies have shown that ingesting asbestos presents a public health threat.

As always, be prepared to answer questions from the media and public truthfully and as fully as possible.

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FINAL
RULE

CAPCO JEN 0011992

USEPA Rule Banning Asbestos Products

Introduction

On July 6, 1989, the US Environmental Protection Agency (USEPA) issued its final rule under section 6 of the Toxic Substances Control Act (TSCA) to prohibit the future manufacture, processing, importation, and distribution in commerce of most asbestos products, including asbestos-cement (A/C) pipe. Major provisions of the rule and its impact on water utilities are discussed below. The complete rule appears in the Wednesday, July 12, 1989, *Federal Register* (Vol. 54, No. 132, pgs. 29460 to 29513).

Health Concerns of Asbestos

Asbestos is the generic name of a group of naturally occurring minerals that separate into microscopic-sized fibers that are heat resistant, flexible, very durable, and are virtually indestructible in most uses. Asbestos is a known human carcinogen when inhaled and poses serious health risks to both individuals and to large populations. Asbestos fibers are easily inhaled and can remain in the body for years. Lung cancer, mesothelioma (a rare and incurable cancer of the chest and abdominal membranes), and asbestosis (a chronic disease of the lungs) are a few of the adverse health effects associated with asbestos exposure by inhalation. Adverse health effects of ingested asbestos (i.e., asbestos in drinking water), however, have not been clearly demonstrated, although USEPA has recently proposed to regulate asbestos in drinking water (54 FR 22062 to 22160) under the requirements of the 1986 Safe Drinking Water Act Amendments (see AWWA Regulation Update No. 2). USEPA has stated that consumption of drinking water delivered by A/C pipe in the United States poses no significant health risk. The health risk associated with A/C pipe is associated with inhalation of asbestos fibers by workers involved in the manufacture, installation, and repair of A/C pipe.

Provisions of the Rule

The rule prohibits, at staged intervals, the manufacture, importation, processing, and distribution in commerce of certain asbestos-containing products. The rule is based on recognized human health risks, the exposure potential to asbestos in products throughout their life cycle, the availability of substitutes, and the likely development of additional safer and less costly substitutes during the phaseout period. The stages are described as follows.

First Stage Ban

Effective August 27, 1990, manufacture, importation, and processing of the following products is prohibited:

- Felt products
 - Pipeline wrap
 - Roofing felt
 - Flooring felt
- Asbestos-cement products
 - A/C sheet, corrugated
 - A/C sheet, flat
- Products out of use
 - Vinyl/asbestos floor tile
 - Asbestos clothing

Effective August 25, 1992, commercial distribution of products included in Stage 1 is prohibited.

Second Stage Ban

Effective August 25, 1993, manufacture, importation, and processing of the following products is prohibited:

- Friction products
 - Drum brake linings [Original Equipment Market (OEM)]
 - Disc brake pads for light- and medium-weight vehicles (LMV) (OEM)
 - Disc brake pads for heavy-weight vehicles (HV) (OEM)
 - Clutch facings
 - Automatic transmission components
 - Industrial and commercial friction products
- Gaskets
 - Beater-add gaskets and sheet gaskets (except certain industrial uses)

Effective August 24, 1994, commercial distribution of products included in Stage 2 is prohibited.

Third Stage Ban

Effective August 26, 1996, manufacture, importation, and processing of the following products is prohibited:

- Coatings
 - Roof coatings
 - Non-roof coatings
- Paper products
 - Commercial paper
 - Rollboard
 - Millboard
 - Corrugated paper
 - Specialty paper
- Friction products
 - Brake blocks (OEM)
 - Brake blocks [Aftermarket (AM)]
 - Drum brake linings (AM)
 - Disc brake pads, LMV (AM)
 - Disc brake pads, HV (AM)
- A/C products
 - A/C pipe
 - A/C shingle

Effective August 25, 1997, commercial distribution of products included in Stage 3 is prohibited.

Products Outside the Ban

The following asbestos products are not banned by the rule. They constitute a relatively small percentage of asbestos use; are costly to ban because of the unavailability of reasonable-cost, suitable substitutes; and do not result in particularly high exposure concerns in most cases relative to products covered by the ban:

- Acetylene cylinders
- Arc chutes
- Asbestos diaphragms
- Battery separators
- High-grade electrical paper
- Missile liners
- Reinforced plastic
- Sealant tape
- Asbestos thread
- Packings
- Certain industrial uses of both sheet gaskets and beater-add gaskets

Exemptions to the Rule

The rule provides that exemptions may be granted only if specific exemption criteria are met. The provisions for receiving and evaluating exemptions are outlined in the preamble to the rule. To obtain an exemption, an applicant must show that the use described in the application would not pose an unreasonable risk to human health or the environment. In addition, the applicant must show demonstrable evidence that the applicant has made good faith efforts to develop substitutes for the use described in the application.

Impact of the Rule on Water Utilities

The major impact of this rule on water utilities will result from the banning of A/C pipe in Stage 3. Manufacture, importation, and processing of A/C pipe will be prohibited effective August 26, 1996, and distribution in commerce of A/C pipe will be prohibited effective August 25, 1997. Utilities that currently allow installation of new A/C pipe in their distribution systems must transition to the use of alternative materials no later than the time commercial availability of A/C pipe ends. AWWA standards for A/C pipe will continue to be in effect. The prohibition of pipeline wrap containing asbestos will affect utilities installing steel water pipe with an AWWA standard C203 type exterior coating. Standard C203 currently provides for several alternative materials in addition to asbestos felt. Each water utility must evaluate the specific impact of the rule on its operation.

Substitutes for A/C pipe

Polyvinyl chloride (PVC) and ductile-iron pipe (DIP) are identified by USEPA as available substitutes for A/C pipe. In addition, asbestos-free concrete products, including prestressed and reinforced concrete pipe, are also mentioned as possible substitutes. The appropriateness of substitute materials must be evaluated on a utility-by-utility basis.

Replacement of Existing A/C pipe

The USEPA recommends that utilities do not replace installed A/C pipe or discontinue the use of existing A/C pipelines because of this rule. USEPA's evaluation of the risk posed by the products covered by the rule is of absolute risk posed over the entire life cycle of products to be produced in the future, not just risk posed by existing products during product use. USEPA's primary concern for the purposes of this rule is the risk posed by exposure to airborne asbestos during the life cycle stages of A/C pipe from manufacture through installation. Actions to remove or discontinue use of existing A/C pipelines in response to this rule are not justified.

Dealing With the Media and Public

Consumers and the media will have questions and utilities should be ready to help them understand the ban and its impact. Reply with the facts. USEPA has stated that consumption of drinking water delivered by A/C pipelines poses no significant health risk. Be ready to inform consumers and the media about the use of A/C pipe in your system and your utilities' plans for the future.

For Additional Information

Additional information about the asbestos ban as well as information concerning USEPA's asbestos activities can be obtained by calling Tim Knutson, USEPA Office of Toxic Substances, (202) 382-7768 or the TSCA hotline, (202) 554-1404.

Information concerning USEPA regulation of asbestos in drinking water can be obtained by calling USEPA's Safe Drinking Water hotline, 1-(800) 426-4791.

A bibliography of studies on asbestos in drinking water can be obtained by calling the AWWA Information Services Dept., (303) 794-7711, ext. 4301.

Information regarding AWWA standards for A/C pipe can be obtained by calling Bruce Elms, AWWA Standards Engineer, (303) 794-7711, ext. 2205.



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